

1 AN ACT in relation to child support.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 505 as follows:

6 (750 ILCS 5/505) (from Ch. 40, par. 505)

7 Sec. 505. Child support; contempt; penalties.

8 (a) In a proceeding for dissolution of marriage, legal
9 separation, declaration of invalidity of marriage, a
10 proceeding for child support following dissolution of the
11 marriage by a court which lacked personal jurisdiction over
12 the absent spouse, a proceeding for modification of a
13 previous order for child support under Section 510 of this
14 Act, or any proceeding authorized under Section 501 or 601 of
15 this Act, the court may order either or both parents owing a
16 duty of support to a child of the marriage to pay an amount
17 reasonable and necessary for his support, without regard to
18 marital misconduct. The duty of support owed to a minor
19 child includes the obligation to provide for the reasonable
20 and necessary physical, mental and emotional health needs of
21 the child.

22 (1) The Court shall determine the minimum amount of
23 support by using the following guidelines:

Number of Children	Percent of Supporting Party's
	Net Income
1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

1 In the case of an unemployed person who is the
2 noncustodial parent, the court shall order that person to
3 pay a minimum amount of support (i) according to the
4 guidelines set forth in this paragraph (1) or (ii) in the
5 amount of \$100 per month, whichever is greater.

6 (2) The above guidelines shall be applied in each
7 case unless the court makes a finding that application of
8 the guidelines would be inappropriate, after considering
9 the best interests of the child in light of evidence
10 including but not limited to one or more of the following
11 relevant factors:

12 (a) the financial resources and needs of the
13 child;

14 (b) the financial resources and needs of the
15 custodial parent;

16 (c) the standard of living the child would
17 have enjoyed had the marriage not been dissolved;

18 (d) the physical and emotional condition of
19 the child, and his educational needs; and

20 (e) the financial resources and needs of the
21 non-custodial parent.

22 If the court deviates from the guidelines, the
23 court's finding shall state the amount of support that
24 would have been required under the guidelines, if
25 determinable. The court shall include the reason or
26 reasons for the variance from the guidelines.

27 (3) "Net income" is defined as the total of all
28 income from all sources, minus the following deductions:

29 (a) Federal income tax (properly calculated
30 withholding or estimated payments);

31 (b) State income tax (properly calculated
32 withholding or estimated payments);

33 (c) Social Security (FICA payments);

34 (d) Mandatory retirement contributions

1 required by law or as a condition of employment;

2 (e) Union dues;

3 (f) Dependent and individual
4 health/hospitalization insurance premiums;

5 (g) Prior obligations of support or
6 maintenance actually paid pursuant to a court order;

7 (h) Expenditures for repayment of debts that
8 represent reasonable and necessary expenses for the
9 production of income, medical expenditures necessary
10 to preserve life or health, reasonable expenditures
11 for the benefit of the child and the other parent,
12 exclusive of gifts. The court shall reduce net
13 income in determining the minimum amount of support
14 to be ordered only for the period that such payments
15 are due and shall enter an order containing
16 provisions for its self-executing modification upon
17 termination of such payment period.

18 In the case of an unemployed person, "net income"
19 for a month means 77% of the amount calculated by
20 multiplying (i) the State minimum hourly wage by (ii) 40
21 hours per week by (iii) the number of weeks in the month.

22 (4) In cases where the court order provides for
23 health/hospitalization insurance coverage pursuant to
24 Section 505.2 of this Act, the premiums for that
25 insurance, or that portion of the premiums for which the
26 supporting party is responsible in the case of insurance
27 provided through an employer's health insurance plan
28 where the employer pays a portion of the premiums, shall
29 be subtracted from net income in determining the minimum
30 amount of support to be ordered.

31 (4.5) In a proceeding for child support following
32 dissolution of the marriage by a court that lacked
33 personal jurisdiction over the absent spouse, and in
34 which the court is requiring payment of support for the

1 period before the date an order for current support is
2 entered, there is a rebuttable presumption that the
3 supporting party's net income for the prior period was
4 the same as his or her net income at the time the order
5 for current support is entered.

6 (5) If the net income cannot be determined because
7 of default or any other reason, the court shall order
8 support in an amount considered reasonable in the
9 particular case. The final order in all cases shall
10 state the support level in dollar amounts. However, if
11 the court finds that the child support amount cannot be
12 expressed exclusively as a dollar amount because all or a
13 portion of the payor's net income is uncertain as to
14 source, time of payment, or amount, the court may order a
15 percentage amount of support in addition to a specific
16 dollar amount and enter such other orders as may be
17 necessary to determine and enforce, on a timely basis,
18 the applicable support ordered.

19 (6) If (i) the non-custodial parent was properly
20 served with a request for discovery of financial
21 information relating to the non-custodial parent's
22 ability to provide child support, (ii) the non-custodial
23 parent failed to comply with the request, despite having
24 been ordered to do so by the court, and (iii) the
25 non-custodial parent is not present at the hearing to
26 determine support despite having received proper notice,
27 then any relevant financial information concerning the
28 non-custodial parent's ability to provide child support
29 that was obtained pursuant to subpoena and proper notice
30 shall be admitted into evidence without the need to
31 establish any further foundation for its admission.

32 (a-5) In an action to enforce an order for support based
33 on the respondent's failure to make support payments as
34 required by the order, notice of proceedings to hold the

1 respondent in contempt for that failure may be served on the
2 respondent by personal service or by regular mail addressed
3 to the respondent's last known address. The respondent's
4 last known address may be determined from records of the
5 clerk of the court, from the Federal Case Registry of Child
6 Support Orders, or by any other reasonable means.

7 (b) Failure of either parent to comply with an order to
8 pay support shall be punishable as in other cases of
9 contempt. In addition to other penalties provided by law the
10 Court may, after finding the parent guilty of contempt, order
11 that the parent be:

12 (1) placed on probation with such conditions of
13 probation as the Court deems advisable;

14 (2) sentenced to periodic imprisonment for a period
15 not to exceed 6 months; provided, however, that the Court
16 may permit the parent to be released for periods of time
17 during the day or night to:

18 (A) work; or

19 (B) conduct a business or other self-employed
20 occupation.

21 The Court may further order any part or all of the
22 earnings of a parent during a sentence of periodic
23 imprisonment paid to the Clerk of the Circuit Court or to the
24 parent having custody or to the guardian having custody of
25 the minor children of the sentenced parent for the support of
26 said minor children until further order of the Court.

27 If there is a unity of interest and ownership sufficient
28 to render no financial separation between a non-custodial
29 parent and another person or persons or business entity, the
30 court may pierce the ownership veil of the person, persons,
31 or business entity to discover assets of the non-custodial
32 parent held in the name of that person, those persons, or
33 that business entity. The following circumstances are
34 sufficient to authorize a court to order discovery of the

1 assets of a person, persons, or business entity and to compel
2 the application of any discovered assets toward payment on
3 the judgment for support:

4 (1) the non-custodial parent and the person,
5 persons, or business entity maintain records together.

6 (2) the non-custodial parent and the person,
7 persons, or business entity fail to maintain an arms
8 length relationship between themselves with regard to any
9 assets.

10 (3) the non-custodial parent transfers assets to
11 the person, persons, or business entity with the intent
12 to perpetrate a fraud on the custodial parent.

13 With respect to assets which are real property, no order
14 entered under this paragraph shall affect the rights of bona
15 fide purchasers, mortgagees, judgment creditors, or other
16 lien holders who acquire their interests in the property
17 prior to the time a notice of lis pendens pursuant to the
18 Code of Civil Procedure or a copy of the order is placed of
19 record in the office of the recorder of deeds for the county
20 in which the real property is located.

21 The court may also order in cases where the parent is 90
22 days or more delinquent in payment of support or has been
23 adjudicated in arrears in an amount equal to 90 days
24 obligation or more, that the parent's Illinois driving
25 privileges be suspended until the court determines that the
26 parent is in compliance with the order of support. The court
27 may also order that the parent be issued a family financial
28 responsibility driving permit that would allow limited
29 driving privileges for employment and medical purposes in
30 accordance with Section 7-702.1 of the Illinois Vehicle Code.
31 The clerk of the circuit court shall certify the order
32 suspending the driving privileges of the parent or granting
33 the issuance of a family financial responsibility driving
34 permit to the Secretary of State on forms prescribed by the

1 Secretary. Upon receipt of the authenticated documents, the
2 Secretary of State shall suspend the parent's driving
3 privileges until further order of the court and shall, if
4 ordered by the court, subject to the provisions of Section
5 7-702.1 of the Illinois Vehicle Code, issue a family
6 financial responsibility driving permit to the parent.

7 In addition to the penalties or punishment that may be
8 imposed under this Section, any person whose conduct
9 constitutes a violation of Section 15 of the Non-Support
10 Punishment Act may be prosecuted under that Act, and a person
11 convicted under that Act may be sentenced in accordance with
12 that Act. The sentence may include but need not be limited
13 to a requirement that the person perform community service
14 under Section 50 of that Act or participate in a work
15 alternative program under Section 50 of that Act. A person
16 may not be required to participate in a work alternative
17 program under Section 50 of that Act if the person is
18 currently participating in a work program pursuant to Section
19 505.1 of this Act.

20 A support obligation, or any portion of a support
21 obligation, which becomes due and remains unpaid for 30 days
22 or more shall accrue interest at the rate of 9% per annum.

23 (c) A one-time charge of 20% is imposable upon the
24 amount of past-due child support owed on July 1, 1988 which
25 has accrued under a support order entered by the court. The
26 charge shall be imposed in accordance with the provisions of
27 Section 10-21 of the Illinois Public Aid Code and shall be
28 enforced by the court upon petition.

29 (d) Any new or existing support order entered by the
30 court under this Section shall be deemed to be a series of
31 judgments against the person obligated to pay support
32 thereunder, each such judgment to be in the amount of each
33 payment or installment of support and each such judgment to
34 be deemed entered as of the date the corresponding payment or

1 installment becomes due under the terms of the support order.
2 Each such judgment shall have the full force, effect and
3 attributes of any other judgment of this State, including the
4 ability to be enforced. A lien arises by operation of law
5 against the real and personal property of the noncustodial
6 parent for each installment of overdue support owed by the
7 noncustodial parent.

8 (e) When child support is to be paid through the clerk
9 of the court in a county of 1,000,000 inhabitants or less,
10 the order shall direct the obligor to pay to the clerk, in
11 addition to the child support payments, all fees imposed by
12 the county board under paragraph (3) of subsection (u) of
13 Section 27.1 of the Clerks of Courts Act. Unless paid in
14 cash or pursuant to an order for withholding, the payment of
15 the fee shall be by a separate instrument from the support
16 payment and shall be made to the order of the Clerk.

17 (f) All orders for support, when entered or modified,
18 shall include a provision requiring the obligor to notify the
19 court and, in cases in which a party is receiving child and
20 spouse services under Article X of the Illinois Public Aid
21 Code, the Illinois Department of Public Aid, within 7 days,
22 (i) of the name and address of any new employer of the
23 obligor, (ii) whether the obligor has access to health
24 insurance coverage through the employer or other group
25 coverage and, if so, the policy name and number and the names
26 of persons covered under the policy, and (iii) of any new
27 residential or mailing address or telephone number of the
28 non-custodial parent. In any subsequent action to enforce a
29 support order, upon a sufficient showing that a diligent
30 effort has been made to ascertain the location of the
31 non-custodial parent, service of process or provision of
32 notice necessary in the case may be made at the last known
33 address of the non-custodial parent in any manner expressly
34 provided by the Code of Civil Procedure or this Act, which

1 service shall be sufficient for purposes of due process.

2 (g) An order for support shall include a date on which
3 the current support obligation terminates. The termination
4 date shall be no earlier than the date on which the child
5 covered by the order will attain the age of majority or is
6 otherwise emancipated. The order for support shall state that
7 the termination date does not apply to any arrearage that may
8 remain unpaid on that date. Nothing in this subsection shall
9 be construed to prevent the court from modifying the order.

10 (h) An order entered under this Section shall include a
11 provision requiring the obligor to report to the obligee and
12 to the clerk of court within 10 days each time the obligor
13 obtains new employment, and each time the obligor's
14 employment is terminated for any reason. The report shall be
15 in writing and shall, in the case of new employment, include
16 the name and address of the new employer. Failure to report
17 new employment or the termination of current employment, if
18 coupled with nonpayment of support for a period in excess of
19 60 days, is indirect criminal contempt. For any obligor
20 arrested for failure to report new employment bond shall be
21 set in the amount of the child support that should have been
22 paid during the period of unreported employment. An order
23 entered under this Section shall also include a provision
24 requiring the obligor and obligee parents to advise each
25 other of a change in residence within 5 days of the change
26 except when the court finds that the physical, mental, or
27 emotional health of a party or that of a minor child, or
28 both, would be seriously endangered by disclosure of the
29 party's address.

30 (Source: P.A. 90-18, eff. 7-1-97; 90-476, eff. 1-1-98;
31 90-539, eff. 6-1-98; 90-655, eff. 7-30-98; 90-733, eff.
32 8-11-98; 91-113, eff. 7-15-99; 91-397, eff. 1-1-00; 91-655,
33 eff. 6-1-00; 91-767, eff. 6-9-00; revised 6-28-00.)